



State of Utah

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Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

Water Quality Board
Steven K. Earley, Chair
James Webb, Vice Chair
Brandon Gordon
Michela Harris
Joseph Havasi
Trevor Heaton
Michael D. Luers
Emily Niehaus
Kimberly D. Shelley
Dr. Erica Brown Gaddis
Executive Secretary

Utah Water Quality Board Meeting
195 North 1950 West
Board Room 1015
Salt Lake City, UT 84116
Via [Zoom](#)

December 15, 2021
Work Meeting Begins at 8:30 am
Board Meeting Begins at 9:30 am

AGENDA

Work Meeting

- 1. Introduction to the Watershed Protection Section..... Jodi Gardberg
- 2. Financial Burden Criteria..... Ken Hoffman

Water Quality Board Meeting – Roll Call

A. Minutes:

- Approval of Minutes for October 27, 2021 Water Quality Board Meeting..... Steven Earley

- B. Executive Secretary’s Report** Erica Gaddis

C. Funding:

- 1. Financial Report..... Krystal Carfaro
- 2. Hanksville Planning Advance George Meados

D. Rule Making

- 1. Request to Adopt R317-1-7 Spring Creek (Heber) *E. coli* Total Maximum Daily Load Study Sandy Wingert

E. Other

- 1. Sinclair Trucking Company Notice of Violation Settlement Samantha Heusser

F. Public Comment Period

G. Meeting Adjournment

Next Meeting January 26, 2022 at 8:30 am
DEQ Board Room 1015
195 North 1950 West
Salt Lake City, UT 84116
Via [Zoom](#)

In compliance with the American Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human resources, at (801) 536-4281, TDD (801) 536-4284, or by email at lwys@utah.gov at least five working days prior to the scheduled meeting.

Revised 12/8/2021
DWQ-2021- 029642

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MEMORANDUM

TO: Utah Water Quality Board

THROUGH: Erica Brown Gaddis, PhD & John Mackey, PE

FROM: Skyler Davies & Ken Hoffman, Engineering Section

DATE: December 15, 2021

SUBJECT: Work Meeting Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program

The State's Affordability Criteria are defined in Utah Administrative Code R317-101-4.B.1, which is included herewith as Attachment 1. R317-101.4.B.1. further charges the Utah Water Quality Board (Board) to evaluate other considerations including economic conditions that may affect the affordability or community's ability to pay for a water quality project. During the Board meeting held June 23, 2021, the Board adopted a policy for evaluating community financial burden. The policy as adopted is enclosed and is posted on the Division's *Financial Assistance, Funds, Grants* webpage:

<https://deq.utah.gov/water-quality/financial-assistance-programs-water-quality>

This policy is a tool to assist staff in systematically determining financing terms, and for the Board in evaluating staff recommendations for project funding packages. The policy did not place any new requirement on the Board and did not change the State's Affordability Criteria. It is intended that this policy will help to guide future decision making, while leaving flexibility to adjust as needed. Ultimately, staff hopes the policy will provide Board and loan applicants a clearer understanding of the economic conditions considered in assessing financial burden and how they were weighed in a financial assistance package.

Staff will review examples of the policy and its application during the work meeting.

Attachments: 1. Utah Administrative Code R317-101-4.B.1.
2. Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program (DWQ-2021-008243)

DWQ-2021-028482

ATTACHMENT 1

Utah Administrative Code R317-101-4.B.1.

B. Water Quality Board Financial Assistance Determination. The amount and type of assistance offered will be based on the following considerations:

1. for loan consideration, the estimated annual cost of sewer service to the average residential user should not exceed 1.4% of the median adjusted gross household income from the most recent available State Tax Commission records. Consideration will also be given to the applicant's unemployment data, population trends, and the applicant's level of contribution to the project. **For hardship grant consideration, exclusive of advances for planning and design, the estimated annual cost of sewer service for the average residential user should exceed 1.4% of the median adjusted gross household income from the most recent available State Tax Commission records.** The Board will also consider the applicant's level of contribution to the project;
2. the estimated, average residential cost, as a percent of median adjusted gross household income, for the proposed project should be compared to the average user charge, as a percent of median adjusted gross household income, for recently constructed projects in the State of Utah;
3. maximizing return on the security account while still allowing the project to proceed;
4. local political and economic conditions;
5. cost effectiveness evaluation of financing alternatives;
6. availability of funds in the security account;
7. environmental need; and
8. other data and criteria the Board may deem appropriate.



FINANCIAL BURDEN EVALUATION POLICY FOR THE UTAH WASTEWATER PROJECT ASSISTANCE PROGRAM

BACKGROUND

The Utah Water Quality Board (the Board) directed Division of Water Quality staff to create a policy to better evaluate the financial burden placed on communities by the various funding alternatives. In addition, the Board directed staff to incorporate the economic factors into this policy contained in Utah Administrative Code (UAC) R317-101-4.B. This policy will be used by staff in preparation of the Introduction and Authorization Reports for wastewater project assistance presented to the Board. The Board will utilize the policy in determining the appropriate funding package for a project.

POLICY

To clarify and standardize the evaluation of a community’s Financial Burden in relation to funding requests, the following procedures will be implemented by staff. In general, a static cost model will be used in evaluating interest rates on loans and resulting monthly rates in relation to a community’s modified median adjusted gross income (modified MAGI). In addition, staff will calculate a Financial Need Indicator (FNI) and a resulting Financial Burden.

Staff will utilize data from the census website (<https://data.census.gov/cedsci/>) to collect a community’s indicator values and State of Utah average indicator values. Table 1 will then apply the range scoring criteria to determine a score for each indicator in relation to the State average value. Definitions and descriptions of the indicators including how to source the values are included at the end of this policy.

TABLE 1: Financial Need Indicator Ranges

INDICATORS	RANGE SCORING CRITERIA	Census Data Code - 5 Year ACS Table
Unemployment Rate	2% less than State = 1, between 2% less to 2% more than State average = calculated between 1 and 3; Above 2% = 3	S2301
Poverty Status	Less than State = 1, between 0-10% more = calculated between 1 and 3; more than 10% = 3	S1701
Threshold Lowest Quintile Income (LQI)	More than State average = 1, Local value is 100% to 50% of State LQI = calculated from 1 to 3, Less than 50% of State = 3	B19080
10 Year Population Percent Increase	More increase than state average = 1, Local increase is 100% to 0% of State average = calculated from 1 to 3, Any percent decrease = 3	B01003

Table 2 will be used by DWQ Staff to calculate a Financial Need Indicator (FNI) for a community and will be included in the Estimated Annual Cost for Sewer Service section of Feasibility Reports. The local and State indicator values from the census website will be entered in Table 2 and then scored in relation to Table 1. Further, the scores will be multiplied by weighting factors, previously set by the Board, to calculate a weighted score. Finally, the weighted scores will be summed and divided by the sum of the weighting factors for a resulting Financial Need Indicator from 1 to 3.

TABLE 2: Financial Need Indicator Calculation

INDICATORS	Local Value	State Value	Score	Weighting Factor	Weighted Score
Unemployment Rate				4	
Poverty Status				2.5	
Threshold LQI				2.5	
10 Year Population Percent Increase				1	
Financial Need Indicator (Sum of weighted Scores/10)					

The Modified MAGI for a community will be used along with the FNI in the matrix found in Table 3 to determine the financial burden of the community on a scale from Low to High.

TABLE 3: Financial Burden Matrix

FNI	Modified MAGI				
	Below 1.4%	1.4% to 1.75%	1.75% to 2.1%	2.1% to 2.45	Above 2.45
Below 1.5	Low	Low	Medium	Medium	High
1.5 to 2.5	Low	Medium	Medium	High	High
Above 2.5	Medium	Medium	High	High	High

The following statement will be included in the Estimated Annual Cost for Sewer Service Section of Feasibility Reports:

“Based on the Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, the community has a Financial Burden of: (Low/Medium/High).”

IMPLEMENTATION

The Utah Wastewater Project Assistance Program application will be updated to include the following table:

Additional Financial Need Metrics

	Local Value
Local Unemployment Rate	
Local Poverty Rate	
Local Threshold LQI	
Local 10 Year Population Percent Increase	

POLICY IMPACTS

The Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program does not alter the Board’s hardship grant consideration threshold contained within UAC R317-101-4. This policy will be used to inform the Board and staff as a tool to evaluate staff funding package recommendations. It does not create requirements for funding package offered by the Board, as the Board makes the final decision on any financing package, and may take other factors into consideration in making that decision.

DEFINITIONS AND DESCRIPTIONS

To calculate the FNI, staff will utilize data from the census website (data.census.gov/cedsci/). The census data is available by entering a community and the reference table number into the search bar. Typically, up to 10 years of data tables are available and for this policy staff will utilize the American Community Survey (ACS) 5-year estimate tables. The indicator parameters evaluated in this policy are the following:

- **Modified MAGI** – Is the modified median adjusted gross income as reported on the Division of Drinking Water’s (DDW) website currently at <https://deq.utah.gov/drinking-water/magi-by-city>. Modified MAGI is calculated by the Utah State Tax Commission by City or for entities that are that are not listed or are not located in a city it is reported by zip code and currently at <https://deq.utah.gov/drinking-water/magi-zip-code>. The modified MAGI equivalent to approximately 1.4 time the Median Household Income.
- **10-Year Population Percent Increase** evaluates the 10-year change in a community’s population compared to the average State of Utah 10-year population change. Indicator values are found in Table B01003 (Total Population). [Row: Total. Column: Estimate.] The indicator value is calculated based on the most recent year ACS 5-Year population less the 10 year ago ACS 5-Year population divided by the 10 years ago ACS 5-Year population.
- **Poverty Status** evaluates a community’s poverty rate compared with the average State of Utah poverty rate. Indicator values are found in Table S1701 (Poverty Status in the past 12 months). [Row: Population for whom poverty status is determined. Column: Percent below poverty level.]
- **Threshold of Lowest Quintile Income (LQI)** evaluates the upper income of the lowest 20% of a community’s population compared with the average State of Utah LQI. Indicator values are found in Table B19080 (Household Income Quintile Upper Limits). [Row: Lowest Quintile. Column: Estimate.]
- **Unemployment Rate** evaluates the local unemployment rate compared with the average State of Utah Table S2301 (Employment Status). [Row: Population 16 years and over. Column: Unemployment Rate -Estimate]

DWQ-2021-008243



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MINUTES

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD**

MASOB
and
Via Zoom

October 27, 2021
8:30 am Board Meeting

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Steven Earley	Trevor Heaton
Brandon Gordon	Mike Luers
Michela Harris	Emily Niehaus
Joe Havasi	James Webb

Excused Kim Shelley

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Jennifer Berjikian	Brenda Johnson
Harry Campbell	Glen Lischeske
Emily Cantón	John Mackey
Krystol Carfaro	George Meados
Eric Castrejon	Winnie Pan
Skyler Davies	Andrew Pompeo
Judy Etherington	Jen Robinson
Erica Gaddis	Lonnie Shull
Clanci Hawks	Mark Stanger
Ben Holcomb	Jeff Studenka
Toby Hooker	Beth Wondimu
Ken Hoffman	Yan Yan

OTHERS PRESENT

Chris Otto	DEQ
Ren Lambert	Limno Tech
Søren Simonson	Jordan River Commission
Mario Gonzalez	Sunrise Engineering
Mayor Jed Maxwell	Salina City
Tim Brown	Salina City
Jennifer Grant	Prior WQ Board Member
Gregg Galecki	Prior WQ Board Member
Jim VanDerslice	Prior WQ Board Member

Dr. Gaddis called the Board Meeting to order at 8:30 AM and asked the current and new board members to introduce themselves.

NOMINATION AND CONFIRMATION OF CHAIR AND VICE CHAIR

Dr. Gaddis called for a nomination of a new Water Quality Board Chair.

Motion: Mr. Gordon made a motion to nominate Mr. Earley as Chair.

Mr. Luers seconded the motion. The motion passed unanimously.

Mr. Earley called for a nomination of a new Water Quality Board Vice Chair.

Motion: Mr. Luers made a motion to nominate Mr. Webb as Vice Chair.

Mr. Gordon seconded the motion. The motion passed unanimously.

ROLL CALL

Mr. Earley took roll call for the members of the Board and audience.

APPROVAL OF MINUTES OF AUGUST 25, 2021 BOARD MEETING

Motion: Mr. Webb moved to approve the minutes of the August 25, 2021 Board meeting.

Mr. Gordon seconded the motion. The motion passed unanimously.

EXECUTIVE SECRETARY REPORT

Dr. Gaddis addressed the Board with the following updates.

National

- 401 Rule was vacated and remanded to the EPA.

Water Quality Core Program Updates

- 2022 Draft Integrated Report (IR) will be sent to public notice by November 1, 2021.
 - It will be ready for an on-time submittal on April 1, 2022.

- Informational item presented to the Board at December 15, 2021 meeting.
- Total Maximum Daily Loads (TMDL)
 - Spring Creek TMDL received comments from UDAF
- Nonpoint Source Program
 - Agriculture Voluntary Incentive Program transfer to UDAF scheduled for January 1, 2022.
 - Gotta Go! program coordination between Public Lands Policy Coordinating Office and Utah Governor's Office of Economic Opportunity to determine how finances will be managed.
- Permitting Program
 - 95% of individual permittees are in compliance.
 - 57% of general permittees are in compliance.
 - Jordan River permits out for public comment.
 - Treated Groundwater permit out for public comment.
 - Pesticides permit renewal nearly ready for public comment.
- Revolving Loan Funds
 - American Rescue Plan (ARPA) sewer list updated and shared with various legislators.

FUNDING REQUESTS

Financial Report: Ms. Carfaro updated the Water Quality Board on the Loan Funds and Hardship Grant Funds as indicated in the packet.

Planning Advance Request – Salina City: Mr. Hoffman presented the Board with a request for a hardship planning advance in the amount of \$400,000 for design and other pre-construction costs related to improvement of a wastewater collection and lagoon treatment facility plant.

Motion: Mr. Luers moved to approve the staff recommendations of requiring the City to return to the Board to fund at the minimum the construction of the upgrades to the lagoon treatment system with the following special conditions.

1. The City must return to the Board for some construction project funding assistance.
2. The Design Advance must be expeditiously repaid to the Board once long-term project financing has been secured.
3. The City must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
4. As part of the facility planning, the City must complete a Water Conservation and Management Plan.

Mr. Webb seconded the motion. The motion passed unanimously.

OTHER

2020 MWPP Results Summary: Mr. Campbell presented the Board with the 2020 Municipal Wastewater Planning Program (MWPP) survey results.

PUBLIC COMMENTS

No public comments.

MEETING ADJOURNMENT

Motion: Mr. Webb moved to adjourn the meeting.

Mr. Galecki seconded the motion. The motion passed unanimously.

To view the full recording of the Water Quality Board meeting.
<https://deq.utah.gov/boards/utah-water-quality-board-meetings>

**Next Meeting – December 15, 2021
Meeting begins at 8:30 am**

**In-Person
MASOB
195 North 1950 West
Salt Lake City, UT 84116**

**Via Zoom
<https://us02web.zoom.us/j/7074990271>**

Steven Earley, Chair
Utah Water Quality Board

LOAN FUNDS FINANCIAL STATUS REPORT DECEMBER 2021

STATE REVOLVING FUND (SRF)	State Fiscal Year 2022	State Fiscal Year 2023	State Fiscal Year 2024	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027
Funds Available						
Capitalization Grants Awards (FFY19 - 21)	\$22,092,801	\$0	\$0	\$0	\$0	\$0
State Match (FFY20 - 21)	\$3,343,000	\$0	\$0	\$0	\$0	\$0
Future Capitalization Grants (estimated)	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000
Future State Match (estimated)	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
SRF - 2nd Round	\$47,402,163	\$19,027,320	\$5,982,357	\$16,208,542	\$46,042,051	\$75,953,224
Interest Earnings at 0.4252%	\$117,573	\$80,904	\$25,437	\$68,919	\$195,771	\$322,953
Loan Repayments (5255)	\$8,864,079	\$17,484,132	\$20,400,749	\$20,164,590	\$20,115,402	\$18,678,941
Total Funds Available	\$91,419,616	\$46,192,357	\$36,008,542	\$46,042,051	\$75,953,224	\$104,555,118
Project Obligations						
Central Valley Water Reclamation Facility	(23,300,000)	(6,800,000)	-	-	-	-
Duchesne City	(27,295)	-	-	-	-	-
Moab City	(80,000)	-	-	-	-	-
Provo City	(34,045,000)	(20,000,000)	(8,800,000)	-	-	-
South Salt Lake City (A)	(2,290,000)	(234,000)	-	-	-	-
Millville City	(1,150,000)	-	-	-	-	-
Loan Authorizations						
South Davis Sewer District (with NPS)	(7,000,000)	(7,176,000)	-	-	-	-
Mountain Green	(1,500,000)	(4,000,000)	(1,500,000)	-	-	-
Payson City		(2,000,000)	(9,500,000)	-	-	-
Millville	(3,000,000)					
Planned Projects						
None at this time						
Total Obligations	(72,392,295)	(40,210,000)	(19,800,000)	-	-	-
SRF Unobligated Funds	\$ 19,027,320	\$ 5,982,357	\$ 16,208,542	\$ 46,042,051	\$ 75,953,224	\$ 104,555,118

UTAH WASTEWATER LOAN FUND (UWLF)	State Fiscal Year 2022	State Fiscal Year 2023	State Fiscal Year 2024	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027
Funds Available						
UWLF	22,103,880	14,549,386	11,089,274	13,885,965	17,017,099	19,995,353
Sales Tax Revenue	-	3,587,500	3,587,500	3,587,500	3,587,500	3,587,500
Loan Repayments (5260)	1,748,956	2,495,988	2,473,791	2,808,235	2,655,353	2,270,341
Total Funds Available	23,852,836	20,632,874	17,150,565	20,281,699	23,259,953	25,853,194
General Obligations						
State Match Transfers	(4,943,000)	(1,600,000)	(1,600,000)	(1,600,000)	(1,600,000)	(1,600,000)
DWQ Administrative Expenses	(1,248,450)	(1,664,600)	(1,664,600)	(1,664,600)	(1,664,600)	(1,664,600)
Project Obligations						
South Salt Lake City (B)	(3,112,000)	(1,779,000)	-	-	-	-
Loan Authorizations						
Spanish Fork	-	(4,500,000)	-	-	-	-
Planned Projects						

LOAN FUNDS FINANCIAL STATUS REPORT DECEMBER 2021

None at this time	-	-	-	-	-	-
Total Obligations	(9,303,450)	(9,543,600)	(3,264,600)	(3,264,600)	(3,264,600)	(3,264,600)
UWLF Unobligated Funds	\$ 14,549,386	\$ 11,089,274	\$ 13,885,965	\$ 17,017,099	\$ 19,995,353	\$ 22,588,594
Total Loan Fund Balance	33,576,707	17,071,631	30,094,507	63,059,150	95,948,577	127,143,712
Project Reserve		(5,000,000)	(10,000,000)	(15,000,000)	(20,000,000)	(25,000,000)
Total Available Loan Funds	33,576,707	12,071,631	20,094,507	48,059,150	75,948,577	102,143,712

HARDSHIP GRANT FUNDS FINANCIAL STATUS REPORT DECEMBER 2021

HARDSHIP GRANT FUNDS (HGF)	State Fiscal Year 2022	State Fiscal Year 2023	State Fiscal Year 2024	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027
Funds Available						
Beginning Balance		1,842,453	2,078,966	2,453,743	2,743,702	2,848,970
Federal HGF Beginning Balance (5250)	4,080,938	-	-	-	-	-
State HGF Beginning Balance (5265)	2,432,875	-	-	-	-	-
Interest Earnings at 0.4252%	16,156	7,834	8,840	10,433	11,666	12,114
UWLF Interest Earnings at 0.4252%	54,825	61,864	47,152	59,043	72,357	85,020
Hardship Grant Assessments (5255)	424,820	1,097,077	1,021,544	945,012	767,302	690,077
Interest Payments - (5260)	149,120	319,738	297,241	275,471	253,943	232,597
Advance Repayments	-	-	-	-	-	-
Total Funds Available	7,158,734	3,328,966	3,453,743	3,743,702	3,848,970	3,868,779
Financial Assistance Project Obligations						
Eagle Mountain City - Construction Grant	(510,000)	-	-	-	-	-
Emigration Sewer Imp Dist - Planning Grant	(26,158)	-	-	-	-	-
Kane Co Water Conservancy Dist (Duck Creek) - Hardship Grant		-	-	-	-	-
Lewiston City - Design and Construction	(274,000)	-	-	-	-	-
Millville City - Design and Construction	(1,000,000)	-	-	-	-	-
Mount Pleasant Planning Advance	(50,000)	-	-	-	-	-
Spanish Fork - Hardship Grant	(250,000)	(250,000)	-	-	-	-
Salina Design Advance	(400,000)	-	-	-	-	-
Non-Point Source/Hardship Grant Obligations						
Fitzgerald ARDL interest-rate buy down	(51,056)	-	-	-	-	-
McKees ARDL interest-rate buy down	(55,261)	-	-	-	-	-
Munk Dairy ARDL interest-rate buy down	(16,017)	-	-	-	-	-
(FY12) Utah Department of Agriculture	(213,233)	-	-	-	-	-
(FY15) DEQ - Ammonia Criteria Study	(27,242)	-	-	-	-	-
(FY17) DEQ - Utah Lake Water Quality Study	(348,301)	-	-	-	-	-
(FY20) Wasatch Co Health Dept Ground WQ Study	(8,270)	-	-	-	-	-
USU - Historic Trophic State/Nutrient Concentrations Paleo	(84,629)	-	-	-	-	-
FY 2018 - Remaining Payments	(16,000)	-	-	-	-	-
FY 2019 - Remaining Payments	(111,419)	-	-	-	-	-
FY 2020 - Remaining Payments	(417,566)	-	-	-	-	-
FY 2021 - Remaining Payments	(496,693)	-	-	-	-	-
FY 2022 - Remaining Payments	(923,836)	-	-	-	-	-
Future NPS Annual Allocations		(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)
Planned Projects						
*Hanksville Planning Advance	(36,600)	-	-	-	-	-
Total Obligations	(5,316,281)	(1,250,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)
HGF Unobligated Funds	\$ 1,842,453	\$ 2,078,966	\$ 2,453,743	\$ 2,743,702	\$ 2,848,970	\$ 2,868,779

State of Utah
Wastewater Project Assistance Program
Project Priority List

As of November 29, 2021

Rank	Project Name	Funding Authorized	Total Points	Point Categories			
				Project Need	Potential Improvement	Population Affected	Special Consideration
1	South Davis Sewer District	x	138	50	18	10	60
2	Payson	x	120	35	17	8	60
3	Spanish Fork Water Reclamation Facility	x	117	50	19	8	40
4	Millville City	x	114	45	46	3	20
5	Mountain Green	x	108	50	14	4	40
6	Lewiston City	x	67	10	16	1	40



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WATER QUALITY BOARD
REQUEST FOR HARDSHIP PLANNING ADVANCE FOR
WASTEWATER CAPITAL FACILITIES PLAN

APPLICANT: Hanksville Town
30 South Highway 95, PO Box 127
Hanksville, UT 84734

PRESIDING OFFICIAL: Mayor Jeffren T. Pei

CONTACT: Lisa Wells, Clerk

TREASURER/RECORDER: Jessica Alvey

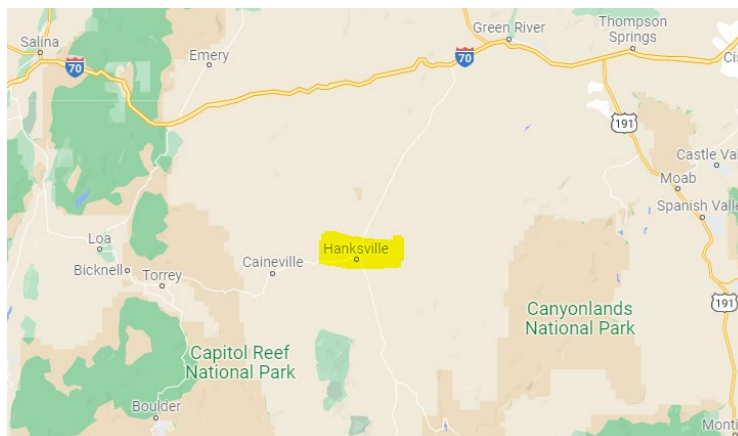
CONSULTING ENGINEER: Daniel Hawley

APPLICANT'S REQUEST

Hanksville Town is requesting a **hardship planning advance** in the amount of \$36,600 to prepare a capital facility plan that evaluates current capacity of the lagoons and any additional improvements beyond the necessary repairs.

APPLICANT'S LOCATION

Hanksville Town is located in Wayne County.



PROJECT NEED

On September 2, 2021 a major flash flooding event along the Fremont River caused the water in the river to over top the existing sewer lagoons embankments and eroded out dikes, headworks structures, transfer structures, and silted in portions of the ponds before spilling back over the dikes into the river. As a result of this event there is a need to repair the current lagoons to ensure proper operation. Hanksville Town’s wastewater treatment facility is classified as a non-discharging wastewater treatment lagoon under the General Operating Permit for Non-discharging Lagoons Coverage No. UTOP00119.

PROJECT DESCRIPTION

Hanksville Town is requesting funding to develop a capital facility plan that will prepare the Town to repair lagoon embankments, remove sediment deposits, evaluate the current capacity, and any additional improvements beyond the necessary repair.

IMPLEMENTATION SCHEDULE

The estimated plan completion date is January 2022.

COST ESTIMATE

Hanksville Town is requesting \$36,600 from the water quality board.

STAFF COMMENTS AND RECOMMENDATION

This is a small rural community with limited capital reserves. The planning advance would allow the Town to perform the necessary repairs that were brought on by the unexpected flooding. Staff recommends the Board authorizes a planning advance of \$36,600 to Hanksville Town.

SPECIAL CONDITIONS

1. The Division of Water Quality must approve the engineering agreement and plan of study before the advance will be executed.
2. The Design Advance must be expeditiously repaid to the Board once long-term project financing has been secured.
3. The City must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
4. As part of the facility planning, the City must complete a Water Conservation and Management Plan.



State of Utah

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Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

Water Quality Board
Steven K. Earley, Chair
James Webb, Vice Chair
Brandon Gordon
Michela Harris
Joseph Havasi
Trevor Heaton
Michael D. Luers
Emily Niehaus
Kimberly D. Shelley
Dr. Erica Brown Gaddis
Executive Secretary

MEMORANDUM

TO: Water Quality Board Members

THROUGH: Erica Brown Gaddis, PhD

FROM: Sandy Wingert, Watershed Protection Section

DATE: December 15, 2021

SUBJECT: Total Maximum Daily Load (TMDL) for Spring Creek (Heber): Request for adoption of TMDL into Rule (R317-1-7)

On August 25, 2021, the Water Quality Board authorized initiation of rulemaking to incorporate the [Total Maximum Daily Load Study \(TMDL\) for Spring Creek \(Heber\)](#) into Rule R317-1-7. The proposed rule was published in the Utah State Bulletin for a 30-day Division of Administrative Rule Public Notice period from October 1, 2021 to November 1, 2021. At the request of the Wasatch County Planning Commission, the Utah Division of Water Quality (DWQ) extended the public comment period to December 1, 2021. DWQ provided a response to public comments received during the October to December time period and if warranted, made changes to the Spring Creek (Heber) *E. coli* TMDL. The response to public comments table is in Appendix C of the TMDL and includes public comments received, DWQ's response, and actions taken in the document. DWQ recommends the Board proceed with incorporating by reference the TMDL for Spring Creek (Heber) into Subsection R317-1-7.67.

The cost of implementation for this TMDL is below \$10 million; therefore, legislature review is not needed for approval. Presented below is the executive summary and timeline of the TMDL, as well as the proposed change in rule, R317-1-7.

Executive Summary of the Spring Creek (Heber) *E. coli* TMDL

Section 303(d) of the Clean Water Act (CWA) requires states to develop TMDLs for waters that do not meet water quality standards. The TMDL establishes allowable loadings of pollutants or other quantifiable parameters for a waterbody. The Spring Creek (Heber) *E. coli* TMDL addresses the

Escherichia coli (*E. coli*) impairment in the Spring Creek (Heber) Assessment Unit. The study is designed to assess and restore the drinking water and recreational beneficial uses of Spring Creek as defined by Utah Administrative Code R317-2-6 and the federal Clean Water Act.

The Spring Creek Assessment Unit was originally listed as impaired in the Utah 2012/2014 Integrated Report and was a high priority for *E. coli* TMDL development by DWQ because the impairment included drinking water uses and possible impacts to areas of high recreational use in the Provo River downstream. *E. coli* is an indicator of recent fecal contamination, and ingestion of water containing fecal pathogens poses a public health risk.

E. coli has been collected at the impaired monitoring site, Spring Creek above confluence of the Provo River, monthly from 2011 to the present. Exceedances of numeric criteria for the drinking water and infrequent contact recreation uses occur during the recreational season (May through October). Observed *E. coli* loading exceeded the TMDL threshold in every flow regime.

This study found that *E. coli* loading must be reduced by 81% to meet water quality standards during the recreation season. This required reduction will be shared among several nonpoint sources in the assessment unit, including livestock, unregulated stormwater, onsite septic systems, pet waste, and irrigated pastures. The single point source with the potential to discharge *E. coli* into the Spring Creek Assessment Unit, Jordanelle Special Service District Water Reclamation Facility, operates under a Utah Pollution Discharge Elimination System (UPDES) permit. Because this facility did not start operating until a decade after the *E. coli* impairments were first determined, its wasteload allocation is set at its permit limits with no reduction required. This TMDL allocates a reserve capacity for future growth due to high development pressures in the Heber Valley area and the possible future need for a Municipal Separate Storm Sewer System (MS4) permit.

DWQ believes *E. coli* loading will be reduced and beneficial uses restored and protected with implementation of the best management practices identified in this TMDL study and a nine-element watershed plan.

Finalization Timeline

August 25, 2021:	Water Quality Board preliminary approval of TMDL / Petition to initial rule-making
Sept. 15 – Oct. 15, 2021:	30-day Division of Administrative Rule Public Notice
Aug. 1 – Dec. 1, 2021:	Extended Public Comment Period
December 15, 2021:	Petition Water Quality Board for formal adoption of TMDL into R317-1-7
December 16, 2021:	Submit TMDL to EPA for approval

R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

- 7.1 Middle Bear River -- February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- September 14, 2010
- 7.7 East Canyon Reservoir -- September 14, 2010
- 7.8 Kents Lake -- September 1, 2000
- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002
- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003
- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004
- 7.40 Upper Bear River -- August 4, 2006

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Water Quality Board
Request for adoption of TMDL into Rule (R317-1-7)

- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010
- 7.58 Pariette Draw -- September 28, 2010
- 7.59 Emigration Creek -- September 1, 2011
- 7.60 Jordan River -- June 27, 2012
- 7.61 Colorado River -- December 5, 2013
- 7.62 Echo Reservoir -- March 26, 2014
- 7.63 Rockport Reservoir -- March 26, 2014
- 7.64 Nine Mile Creek -- October 27, 2016
- 7.65 North Fork Virgin River -- May 23, 2018
- 7.66 Fremont River - October 28, 2020
- 7.67 Spring Creek (Heber) - December 15, 2021



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Department of
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DIVISION OF WATER QUALITY
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Kimberly D. Shelley
Dr. Erica Brown Gaddis
Executive Secretary

MEMORANDUM

TO: Water Quality Board

THROUGH: Erica Brown Gaddis, PhD

FROM: Samantha Heusser

DATE: December 15, 2021

SUBJECT: Request for Approval of Settlement Agreement
Sinclair Trucking Company Docket No. I21-03

The Utah Water Quality Act, Utah Code Section 19-5-104 (3)(h)(i) and (ii), requires any settlement negotiated by the Director with a civil penalty in excess of \$25,000 must be reviewed and approved or disapproved by the Water Quality Board.

Sinclair Trucking Company (Sinclair) is a Wyoming company doing business in Utah. Corporation Service Company is the Registered Agent for Sinclair Trucking Company.

On March 1, 2021 the Utah Division of Water Quality (Division) received a report of a large discharge of jet fuel into storm drain at or near Mile Marker 182 in the median of the Interstate 80 freeway in Summit County, Utah. A semi-truck belonging to Sinclair allegedly struck another vehicle, causing the truck to lose control and stop in the freeway median strip approximately 15 feet uphill from a storm drain. The tank trailer had been damaged in the collision, creating a small hole in the tank, which allowed an estimated 2,200 gallons of jet fuel to leak out onto the ground and flow into the storm drain. From this location, the storm drain flows under the westbound lanes of the freeway and discharges into a small draw approximately 100 feet uphill from Echo Creek.

Division staff inspected the accident site and areas downstream on three separate days: March 1, 5, and 11, 2021. Frozen creek and snow-covered ground limited collection of water samples and assessment of contamination extents at times (March 1 and 5). Samples collected from Echo Creek at the point of discharge (March 11) and at a location 3 miles downstream (March 5) contained detectable hydrocarbon concentrations. Hydrocarbons were not detected at an Echo Creek location 7.5 miles downstream from the point of discharge any of these days.

On March 1 and 5, 2021, Division staff reported observations of cleanup contractor activity where contaminated soils were excavated from the draw and the creek banks and stockpiled prior to removal.

Removal of contaminated soils was completed on or around April 8, 2021 as described in the Cleanup Summary Report submitted by Underwood Environmental on behalf of Sinclair Trucking Company.

As a result of this incident, the Division issued a Notice of Violation and Compliance Order to Sinclair Trucking Company on May 12, 2021. Sinclair Trucking Company signed a Settlement Agreement on September 23, 2021.

The negotiated penalty is \$29,455.00. Attached for your reference is the proposed Settlement Agreement Docket #I21-03.

The terms of the financial settlement are as follows:

Total Civil Penalty	\$25,667.00
Administrative Cost Reimbursement to DWQ	\$3,788.00
Total Settlement	\$29,455.00

The public comment period for the proposed Settlement Agreement ran from October 8, 2021 to November 8, 2021 (<https://deq.utah.gov/businesses-facilities/sinclair-trucking-company>). No comments were received.

The proposed Settlement Agreement represents a fair and reasonable settlement. It is the staff's recommendation that this settlement be approved.

Attachments:

1. Sinclair Trucking Notice of Violation and Order of Consent I21-03 (DWQ-2021-008086)
2. Sinclair Trucking Settlement Agreement I21-03 (DWQ-2021-019664)
3. Sinclair Trucking Public Notice (DWQ-2021-020082)

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

<p>In the Matter of: SINCLAIR TRUCKING COMPANY C/O Corporation Service Company, Registered Agent 15 West South Temple Street Salt Lake City, Utah 84101</p>	<p>NOTICE OF VIOLATION AND COMPLIANCE ORDER DOCKET NO. I21-03</p>
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This Notice of Violation and Compliance Order (NOV/CO) is issued to Sinclair Trucking Company (Respondent) based upon the Facts and Determinations asserted herein. This NOV/CO is issued by the Director of the Utah Division of Water Quality (Director) pursuant to the Director's authority under the Utah Water Quality Act, as amended, Utah Code. Sections 19-5-101 to 19-5-124 (the Act). This NOV/CO is also issued in accordance with the administrative procedures of the Utah Department of Environmental Quality, Utah Administrative Code R305-7 *et. seq.*

A. STATUTORY AUTHORITY

1. The State of Utah's surface water quality programs as adopted in the Utah Water Quality Act by the Utah Legislature operate with federal oversight and under delegation from the Environmental Protection Agency (EPA) under the federal Clean Water Act, 33 U.S.C. 1342.
2. The Director is authorized to issue, continue in effect, renew, revoke, modify or deny discharge permits and to issue orders under the Act and in accordance with Utah Code Section 19-5-106(2)(d) and may enforce rules made by the Board through the issuance of orders.
3. The Utah Division of Water Quality (Division) was created to administer the Act under the immediate direction and control of the Director pursuant to Utah Code Section 19-1-105.
4. Pursuant to Utah Code Section 19-5-111, whenever the Director determines that there are reasonable grounds to believe that there has been a violation of the Act, the water quality rules, or any order of the Director or the Board, the Director may issue a notice of violation. In that event, the notice shall require that the matters complained of be corrected.
5. Utah Code Section 19-5-115 provides that any person who violates a rule or order made or issued pursuant to the Act, or any rule or order made thereunder, may be subject, in a civil proceeding, to a civil penalty of up to \$10,000 per day of violation.

Higher penalties and other sanctions may arise in situations amounting to knowing or willful violations.

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. Utah Code Section 19-5-107(1)(a) states: “Except as provided in the [Water Quality Act] or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any waste in a location where there is probable cause to believe it will cause pollution.”
2. Utah Code Section 19-5-102(22) defines “waste” or “pollutant” as “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial municipal, and agricultural waste . . .”
3. Utah Code Section 19-5-102(23)(a) defines “waters of the State” as “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.”

C. FACTS & DETERMINATIONS

1. Sinclair Trucking Company (Sinclair) is a Wyoming company doing business in Utah. Corporation Service Company is the Registered Agent for Sinclair Trucking Company.
2. On or about March 1, 2021 the Utah Division of Water Quality (Division) received a report of a large discharge of jet fuel into storm drain at or near Mile Marker 182 in the median of the Interstate 80 freeway in Summit County, Utah. According to the report, a semi-truck belonging to Sinclair struck another vehicle, causing the truck to lose control and stop in the freeway median strip approximately 15 feet uphill from a storm drain. The tank trailer had been damaged in the collision, creating a small hole in the tank which allowed an estimated 2,200 gallons of jet fuel to leak out onto the ground and flow into the storm drain. The report was entered into the Utah Department of Environmental Quality’s Environmental Incidents Database and assigned the number 14822.
3. On or about March 1, 2021, two employees of the Division responded to the accident location and inspected the site. They observed that the storm drain flows under the westbound lanes of the freeway and discharges from a drain pipe into a small draw approximately 100 feet uphill from Echo Creek. Because Echo Creek was frozen at

that location and the ground was covered with several inches of snow, they were unable to collect samples or determine the extent of the contaminated area; however, they observed discolored ice hanging from the drain pipe and detected a strong hydrocarbon odor throughout the area of the spill.

4. On or about March 1, 2021, the Division employees collected water samples from Echo Creek at the Utah Department of Transportation (UDOT) Port of Entry station approximately 3 miles downstream from the accident site. The water at this location was flowing freely and the employees did not observe a sheen on the surface or detect any hydrocarbon odor. The employees also collected water samples from Echo Creek near the entrance to Echo Creek Ranch approximately 7 ½ miles downstream from the accident site. The employees delivered the samples later that day to American West Analytical Laboratories (AWAL) in South Salt Lake, Utah, for analysis.
5. On or about March 3, 2021, AWAL delivered to the Division the analytical report for analysis of the water samples collected from Echo Creek on March 1, 2021. The samples were analyzed for concentrations of volatile organic compounds (VOC), hydrocarbon compounds found in the gasoline range (GRO), and hydrocarbon compounds in the range of those found in diesel fuel (DRO). None of the samples contained detectable concentrations of these compounds.
6. On or about March 5, 2021, the Division employees returned and inspected the accident site and areas downstream. They observed the cleanup contractors had excavated a large amount of soil from the draw and the creek banks. They detected a hydrocarbon odor but did not observe a sheen on the surface of Echo Creek where it was thawed and flowing. The employees collected water samples from Echo Creek at the two previous locations near the UDOT Port of Entry and the Echo Creek Ranch entrance and delivered the samples later that day to American West Analytical Laboratories (AWAL) in South Salt Lake, Utah, for analysis.
7. On or about March 9, 2021, AWAL delivered to the Division the analytical report for analysis of the water samples collected from Echo Creek on March 5, 2021. The samples were analyzed for concentrations of volatile organic compounds (VOC), hydrocarbon compounds found in the gasoline range (GRO), and hydrocarbon compounds in the range of those found in diesel fuel (DRO). The results are summarized below; all concentrations are expressed in milligrams of substance per liter of water (mg/L). No compounds other than those listed below were detected in the samples:

Chemical	UDOT Port of Entry	Echo Creek Ranch
DRO	<0.483	<0.478
GRO	0.0662	<0.020
Toluene	0.0158	<0.002
Ethylbenzene	0.00315	<0.002
Xylenes	0.0215	<0.002
Napthalene	0.00202	<0.002

8. On or about March 11, 2021, the Division employees returned and inspected the accident site and areas downstream. As opposed to previous inspections, Echo Creek had thawed and water was flowing in the creek. They observed the cleanup contractors were continuing the removal of contaminated soil. They detected a weak hydrocarbon odor and observed a slight sheen on the surface of Echo Creek at the point of discharge. The employees collected water samples from Echo Creek approximately 100 feet upstream from the point of discharge, at the point of discharge, as well as at the two previous locations near the UDOT Port of Entry and the Echo Creek Ranch gate. They delivered the samples later that day to American West Analytical Laboratories (AWAL) in South Salt Lake, Utah, for analysis.
9. On or about March 16, 2021, AWAL delivered to the Division the analytical report for analysis of the water samples collected from Echo Creek on March 11, 2021. The samples were analyzed for concentrations of volatile organic compounds (VOC), hydrocarbon compounds found in the gasoline range (GRO), and hydrocarbon compounds in the range of those found in diesel fuel (DRO). The results are summarized below; all concentrations are expressed in milligrams of substance per liter of water (mg/L). No compounds other than those listed below were detected in the samples:

Chemical	Upstream	Point of Discharge	UDOT Port of Entry	Echo Creek Ranch
DRO	<0.498	5.62	<0.498	<0.500
GRO	<0.020	0.117	<0.020	<0.020
Toluene	<0.002	0.00239	<0.002	<0.002
Ethylbenzene	<0.002	<0.002	<0.002	<0.002
Xylenes	<0.002	0.00701	<0.002	<0.002
Napthalene	<0.002	<0.002	<0.002	<0.002

10. The storm drain system in the section of Interstate 80 where the accident occurred drains into Echo Creek, which is classified under Utah Administrative Code R317-2-13.4(a), Classification of Waters of the State, as a 1C, 2B, 3A, 4 Water of the State. These designations protect the culinary, recreational, aquatic wildlife, and agricultural uses of water in Echo Creek.

D. VIOLATIONS

Based on the foregoing Sinclair has violated the following:

1. Utah Code Section 19-5-107(1)(a) for discharging a pollutant into the waters of the State.

E. ORDER

Based on the foregoing Facts and Determinations and Violations and pursuant to Utah Code Sections 19-5-107 and 19-5-111, Sinclair is hereby **ORDERED** to:

1. As of the date of issuance of this NOV/CO, if not already initiated, initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act in Utah Code Title 19 Chapter 5 and the Water Quality rules in the Utah Administrative Code R317.
2. Cease and desist all discharges which violate Utah Water Quality statutes and rules.
3. Submit a report containing the information below. The report must be submitted to the Director within thirty (30) days of the date of issuance of this NOV/CO and must provide the information listed below:
 - A. An evaluation of what caused the cited violation. This information should include the facts of the specific discharge outlined in the Facts and Determinations, as well as any other information regarding the release that occurred that may be important in resolving the violation listed in Section D of this NOV/CO.
 - B. Describe, in detail, the actions taken and/or planned to be implemented (including dates), to attain and continue to be in full compliance with this NOV/CO.

F. NOTICE

Sinclair may contest this NOV/CO by filing and serving a written Request for Agency Action as provided in Utah Administrative Code R305-7-303 and R305-7-104(5). The NOV/CO is effective upon issuance (date signed) and, even if it is contested, remains effective unless a stay is issued or the NOV/CO is rescinded, vacated or otherwise terminated.

Failure to contest this NOV/CO within the period specified in R305-7-303(5) [30 days] waives any right to contest the NOV/CO or to seek judicial review.

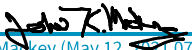
All reports required under this NOV/CO must be accompanied by the following certification, which is to be signed in accordance with Utah Administrative Code R317-8-3.4(4):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the

information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.”

Utah Code Section 19-5-115 provides that violation of the Water Quality Act or a related Order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of willfulness or gross negligence, violators may be fined up to \$25,000 per day of violation. Failure to comply with this NOV/CO may result in additional civil penalties or criminal fines under Utah Code Section 19-5-115.

Issued this 11th day of May, 2021.


John Mackey (May 12, 2021 07:00 MDT)

John K. Mackey, P.E.
Acting Director, Division of Water Quality

DWQ-2021-008066

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH DIVISION OF WATER QUALITY

<p>IN THE MATTER OF SINCLAIR TRUCKING COMPANY C/O Corporation Service Company, Registered Agent 15 West South Temple Street Salt Lake City, Utah 84101</p>	<p>SETTLEMENT AGREEMENT Docket No. I21-03</p>
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This Administrative Settlement Agreement (hereinafter "**Settlement**") is between the Director of the Utah Division of Water Quality ("**Director**") and Sinclair Trucking Company ("**Respondent**") pursuant to the Director's authority to administer the Utah Water Quality Act. The **Director** and **Respondent** are sometimes referred to hereinafter as "**the Parties.**"

1. The **Director** has authority to administer the Utah Water Quality Act ("the **Act**") pursuant to Utah Code Section 19-1-105(1)(e), and has authority to enforce rules through the issuance of orders, as specified in Utah Code Sections 19-5-106(2)(d) and 19-5-111. The **Director** also has authority to settle any civil action initiated to compel compliance with the **Act** and implementing regulations pursuant to Utah Code Section 19-5-106(2)(k).
2. **Respondent** is a "person" as that term is defined in Utah Code Section 19-1-103(4).
3. This **Settlement** is entered into for the purposes of avoiding further administrative enforcement based upon the following findings and violation[s]:
4. On or about March 1, 2021 the **Director** received a report of a large discharge of jet fuel into a storm drain at or near Mile Marker 182 in the median of the Interstate 80 freeway in Summit County, Utah. According to the report, a semi-truck belonging to the **Respondent** struck another vehicle, causing the truck to lose control and stop in the freeway median strip approximately 15 feet uphill from a storm drain. The tank trailer had been damaged the collision, creating a small hole in the tank which allowed an estimated 2,200 gallons of jet fuel to leak out onto the ground and flow into the storm drain. The report was entered into the Utah Department of Environmental Quality's Environmental Incidents Database and assigned the number 14822.
5. On or about March 1, 2021, two employees of the Division of Water Quality ("**Division**") responded to the accident location and inspected the site. They observed that the storm drain flows under the westbound lanes of the freeway and discharges from a drain pipe into a small draw approximately 100 feet uphill from Echo Creek. Because Echo Creek was frozen at that location and the ground was covered with several inches of snow, they were unable to collect samples or determine the extent of the contaminated area; however, they observed discolored ice hanging from the drain pipe and detected a strong

hydrocarbon odor throughout the area of the spill. The **Division** collected water samples from Echo Creek at the Utah Department of Transportation (“**UDOT**”) Port of Entry station approximately 3 miles downstream from the accident site. The water at this location was flowing freely and the employees did not observe a sheen on the surface or detect any hydrocarbon odor. The employees also collected water samples from Echo Creek near the entrance to Echo Creek Ranch approximately 7 ½ miles downstream from the accident site. The employees delivered the samples later that day to America West Analytical Laboratories (“**AWAL**”) in South Salt Lake, Utah, for analysis. On or about March 3, 2021, **AWAL** delivered to the Division the analytical report for analysis of the water samples collected from Echo Creek on March 1, 2021. The samples were analyzed for concentrations of volatile organic compounds and hydrocarbon compounds found in gasoline and diesel fuel; many of these compounds are also present in jet fuel. None of the samples contained detectable concentrations of these compounds.

6. On or about March 5, 2021, the **Division** returned and inspected the accident site and areas downstream. They observed the cleanup contractors had excavated a large amount of soil from the draw and the creek banks. They detected a hydrocarbon odor but did not observe a sheen on the surface of Echo Creek where it was thawed and flowing. The employees collected water samples from Echo Creek at the two previous locations near the **UDOT** Port of Entry and the Echo Creek Ranch entrance and delivered the samples later that day to **AWAL** for analysis. On or about March 9, 2021, **AWAL** delivered to the **Division** the analytical report for analysis of the water samples collected from Echo Creek on March 5, 2021. The water sample collected at the Port of Entry contained detectable concentrations of hydrocarbon compounds found in gasoline as well as ethylbenzene, toluene, naphthalene, and xylene compounds.
7. On or about March 11, 2021, the **Division** returned and inspected the accident site and areas downstream. As opposed to previous inspections, Echo Creek had thawed and water was flowing in the creek. They observed the cleanup contractors were continuing the removal of contaminated soil. They detected a weak hydrocarbon odor and observed a slight sheen on the surface of Echo Creek at the point of discharge. The employees collected water samples from Echo Creek approximately 100 feet upstream from the point of discharge and at the point of discharge as well as at the two previous locations near the **UDOT** Port of Entry and the Echo Creek Ranch gate. They delivered the samples later that day to **AWAL** in South Salt Lake, Utah, for analysis. On March 16, 2021 **AWAL** delivered to the **Division** the analytical report for analysis of the water samples collected from Echo Creek on March 11, 2021. The water sample collected at the point of discharge contained detectable concentrations of hydrocarbon compounds found in gasoline and diesel fuel, as well as toluene and xylene compounds.
8. The storm drain system in this area drains into Echo Creek, which is classified under Utah Administrative Code R317-2-13.5(b), Classification of Waters of the State, as a 1C, 2B, 3A, 4 Water of the State.
9. In response to the discharge, the **Director** issued a Notice of Violation and Compliance Order Docket No. I21-03 (NOV/CO) to **Respondent** on May 11, 2021.

10. **Respondent** timely complied with the requirements in the NOV/CO to the **Director's** satisfaction, such that no further remedial action to address the violation(s) is necessary.
11. The **Parties** voluntarily enter into this **Settlement** to resolve the NOV/CO issued to the **Respondent** without the necessity of further administrative or judicial proceedings.
12. **Respondent** understands and agrees that a penalty in the amount of \$29,455.00, which includes \$25,667.00 in penalties and \$3,788.00 in sampling and investigative costs, is appropriate based on the application of Division's penalty policy contained in Utah Administrative Code R317-1-8 as applied to the violation(s) under the circumstances specified herein. This proposed settlement and penalty is subject to a thirty (30) day notice and comment period as provided for in Utah Administrative Code R305-7-402. The **Parties** each reserve the right to withdraw from this **Settlement** if comments received during the notice period result in a modification to the terms and conditions.
13. By entering into this **Settlement**, **Respondent** neither admits nor denies the findings, violations or deficiencies specified herein.
14. **Respondent** agrees to the terms, conditions and requirements of this **Settlement**. By signing this **Settlement**, Respondent understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code Section 19-1-301; (2) the right to contest the finding(s) in the NOV/CO; and (3) the opportunity for judicial review.
15. The **Parties** mutually agree that this **Settlement** is entered in good faith and is an appropriate means to resolve the matters specified herein.
16. This **Settlement** will be final after the thirty day notice and comment period, on the date the **Director** signs the **Settlement**,
17. **Respondent** agrees that within fifteen (15) calendar days of receiving the signed and final **Settlement** from the **Director**, Respondent shall submit a certified or cashier's check written to the Division of Water Quality in the amount specified in paragraph 10, above and hand deliver or send by certified mail to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

18. Notwithstanding paragraph 13 above, the violations described herein will constitute part of **Respondent's** compliance history where such history is relevant, including any subsequent violations. **Respondent** understands and agrees that this **Settlement** is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
19. This **Settlement**, when final, is binding upon **Respondent** and any corporate subsidiaries

or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this **Settlement**.

ACCEPTED BY SINCLAIR TRUCKING COMPANY:

Name (print) Danny C. Hansen

Title (print) Manager Truck Operations

Signature Danny C. Hansen

Date _____

DIVISION OF WATER QUALITY

Erica Brown Gaddis, PhD
Director

Date _____

DWQ-2021-019664



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

ATTACHMENT 3

October 8, 2021

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

PUBLIC NOTICE OF SETTLEMENT AGREEMENT,
SINCLAIR TRUCKING COMPANY, DOCKET NO. 121-03

PURPOSE OF PUBLIC NOTICE

This notice is to declare that the State of Utah has issued a Settlement Agreement to Sinclair Trucking Company. This Public Notice is issued pursuant to Utah Administrative Code R317-8-1.9, to provide opportunity for public comment on the proposed settlement of an enforcement action. The proposed order is for the purpose of resolving alleged violations of Utah Code Annotated 19-5 (Water Quality Act), and is a resolution of enforcement proceedings brought against Sinclair Trucking Company.

PUBLIC COMMENTS

Public comments are invited any time prior to close of business November 8, 2021. Comments may be directed to the Department of Environmental Quality, Division of Water Quality, 195 North 1950 West, PO Box 144870, Salt Lake City, Utah 84114-4870.

FURTHER INFORMATION

The settlement agreement is available for public review under "Public Notices" at <https://deq.utah.gov/water-quality/water-quality-public-notice>.

If internet access is not available, a copy may be obtained by calling Kevin Okleberry at 801-536-4054. Written public comments can be submitted to: Kevin Okleberry, P.O. Box 144870, Salt Lake City, Utah 84114-4870 or by email at: kokleberry@utah.gov. The deadline to receive comments is close of business November 8, 2021. After considering public comment the Director of the Division of Water Quality may execute the settlement agreement, revise it, or abandon it.

DWQ-2021-020082